

have submitted to the permitting authority an annual compliance certification report in accordance with § 96.30.

(2) If the NO<sub>x</sub> Budget opt-in source has excess emissions for the control period immediately before the withdrawal is to be effective, the Administrator will deduct or has deducted from the NO<sub>x</sub> Budget opt-in source's compliance account, or the overdraft account of the NO<sub>x</sub> Budget source where the NO<sub>x</sub> Budget opt-in source is located, the full amount required under § 96.54(d) for the control period.

(3) After the requirements for withdrawal under paragraphs (b)(1) and (2) of this section are met, the Administrator will deduct from the NO<sub>x</sub> Budget opt-in source's compliance account, or the overdraft account of the NO<sub>x</sub> Budget source where the NO<sub>x</sub> Budget opt-in source is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to that source under § 96.88 for any control period for which the withdrawal is to be effective. The Administrator will close the NO<sub>x</sub> Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO<sub>x</sub> Budget opt-in source. The NO<sub>x</sub> authorized account representative for the NO<sub>x</sub> Budget opt-in source shall become the NO<sub>x</sub> authorized account representative for the general account.

(c) A NO<sub>x</sub> Budget opt-in source that withdraws from the NO<sub>x</sub> Budget Trading Program shall comply with all requirements under the NO<sub>x</sub> Budget Trading Program concerning all years for which such NO<sub>x</sub> Budget opt-in source was a NO<sub>x</sub> Budget opt-in source, even if such requirements arise or must be complied with after the withdrawal takes effect.

(d) *Notification.* (1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of NO<sub>x</sub> allowances required), the permitting authority will issue a notification to the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> Budget opt-in source of the acceptance of the withdrawal of the NO<sub>x</sub> Budget opt-in source as of a specified effective date that is

after such requirements have been met and that is prior to May 1 or after September 30.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the permitting authority will issue a notification to the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> Budget opt-in source that the NO<sub>x</sub> Budget opt-in source's request to withdraw is denied. If the NO<sub>x</sub> Budget opt-in source's request to withdraw is denied, the NO<sub>x</sub> Budget opt-in source shall remain subject to the requirements for a NO<sub>x</sub> Budget opt-in source.

(e) *Permit amendment.* After the permitting authority issues a notification under paragraph (d)(1) of this section that the requirements for withdrawal have been met, the permitting authority will revise the NO<sub>x</sub> Budget permit covering the NO<sub>x</sub> Budget opt-in source to terminate the NO<sub>x</sub> Budget opt-in permit as of the effective date specified under paragraph (d)(1) of this section. A NO<sub>x</sub> Budget opt-in source shall continue to be a NO<sub>x</sub> Budget opt-in source until the effective date of the termination.

(f) *Reapplication upon failure to meet conditions of withdrawal.* If the permitting authority denies the NO<sub>x</sub> Budget opt-in source's request to withdraw, the NO<sub>x</sub> authorized account representative may submit another request to withdraw in accordance with paragraphs (a) and (b) of this section.

(g) *Ability to return to the NO<sub>x</sub> Budget Trading Program.* Once a NO<sub>x</sub> Budget opt-in source withdraws from the NO<sub>x</sub> Budget Trading Program and its NO<sub>x</sub> Budget opt-in permit is terminated under this section, the NO<sub>x</sub> authority account representative may not submit another application for a NO<sub>x</sub> Budget opt-in permit under § 96.83 for the unit prior to the date that is 4 years after the date on which the terminated NO<sub>x</sub> Budget opt-in permit became effective.

#### § 96.87 Change in regulatory status.

(a) *Notification.* When a NO<sub>x</sub> Budget opt-in source becomes a NO<sub>x</sub> Budget unit under § 96.4, the NO<sub>x</sub> authorized account representative shall notify in writing the permitting authority and the Administrator of such change in

the NO<sub>x</sub> Budget opt-in source's regulatory status, within 30 days of such change.

(b) *Permitting authority's and Administrator's action.* (1)(i) When the NO<sub>x</sub> Budget opt-in source becomes a NO<sub>x</sub> Budget unit under § 96.4, the permitting authority will revise the NO<sub>x</sub> Budget opt-in source's NO<sub>x</sub> Budget opt-in permit to meet the requirements of a NO<sub>x</sub> Budget permit under § 96.23 as of an effective date that is the date on which such NO<sub>x</sub> Budget opt-in source becomes a NO<sub>x</sub> Budget unit under § 96.4.

(ii)(A) The Administrator will deduct from the compliance account for the NO<sub>x</sub> Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO<sub>x</sub> Budget source where the unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as:

(1) Any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> Budget unit (as a NO<sub>x</sub> Budget opt-in source) under § 96.88 for any control period after the last control period during which the unit's NO<sub>x</sub> Budget opt-in permit was effective; and

(2) If the effective date of the NO<sub>x</sub> Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> Budget unit (as a NO<sub>x</sub> Budget opt-in source) under § 96.88 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(B) The NO<sub>x</sub> authorized account representative shall ensure that the compliance account of the NO<sub>x</sub> Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO<sub>x</sub> Budget source where the unit is located, includes the NO<sub>x</sub> allowances necessary for completion of the deduction under paragraph (b)(1)(ii)(A) of this section. If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(iii)(A) For every control period during which the NO<sub>x</sub> Budget permit revised under paragraph (b)(1)(i) of this section is effective, the NO<sub>x</sub> Budget unit under paragraph (b)(1)(i) of this section will be treated, solely for purposes of NO<sub>x</sub> allowance allocations under § 96.42, as a unit that commenced operation on the effective date of the NO<sub>x</sub> Budget permit revision under paragraph (b)(1)(i) of this section and will be allocated NO<sub>x</sub> allowances under § 96.42.

(B) Notwithstanding paragraph (b)(1)(iii)(A) of this section, if the effective date of the NO<sub>x</sub> Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the following number of NO<sub>x</sub> allowances will be allocated to the NO<sub>x</sub> Budget unit under paragraph (b)(1)(i) of this section under § 96.42 for the control period: the number of NO<sub>x</sub> allowances otherwise allocated to the NO<sub>x</sub> Budget unit under § 96.42 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(2)(i) When the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> Budget opt-in source does not renew its NO<sub>x</sub> Budget opt-in permit under § 96.83(b), the Administrator will deduct from the NO<sub>x</sub> Budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> Budget source where the NO<sub>x</sub> Budget opt-in source is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> Budget opt-in source under § 96.88 for any control period after the last control period for which the NO<sub>x</sub> Budget opt-in permit is effective. The NO<sub>x</sub> authorized account representative shall ensure that the NO<sub>x</sub> Budget opt-in source's compliance account or the overdraft account of the NO<sub>x</sub> Budget source where the NO<sub>x</sub> Budget opt-in source is located includes the NO<sub>x</sub> allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless

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of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(ii) After the deduction under paragraph (b)(2)(i) of this section is completed, the Administrator will close the NO<sub>x</sub> Budget opt-in source's compliance account. If any NO<sub>x</sub> allowances remain in the compliance account after completion of such deduction and any deduction under § 96.54, the Administrator will close the NO<sub>x</sub> Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO<sub>x</sub> Budget opt-in source. The NO<sub>x</sub> authorized account representative for the NO<sub>x</sub> Budget opt-in source shall become the NO<sub>x</sub> authorized account representative for the general account.

### § 96.88 NO<sub>x</sub> allowance allocations to opt-in units.

(a) *NO<sub>x</sub> allowance allocation.* (1) By December 31 immediately before the first control period for which the NO<sub>x</sub> Budget opt-in permit is effective, the permitting authority will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> Budget opt-in source and submit to the Administrator the allocation for the control period in accordance with paragraph (b) of this section.

(2) By no later than December 31, after the first control period for which the NO<sub>x</sub> Budget opt-in permit is in effect, and December 31 of each year thereafter, the permitting authority will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> Budget opt-in source, and submit to the Administrator allocations for the next control period, in accordance with paragraph (b) of this section.

(b) For each control period for which the NO<sub>x</sub> Budget opt-in source has an approved NO<sub>x</sub> Budget opt-in permit, the NO<sub>x</sub> Budget opt-in source will be allocated NO<sub>x</sub> allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO<sub>x</sub> allowance allocations will be the lesser of:

(i) The NO<sub>x</sub> Budget opt-in source's baseline heat input determined pursuant to § 96.84(c); or

(ii) The NO<sub>x</sub> Budget opt-in source's heat input, as determined in accordance with subpart H of this part, for

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the control period in the year prior to the year of the control period for which the NO<sub>x</sub> allocations are being calculated.

(2) The permitting authority will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> Budget opt-in source in an amount equaling the heat input (in mmBtu) determined under paragraph (b)(1) of this section multiplied by the lesser of:

(i) The NO<sub>x</sub> Budget opt-in source's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined pursuant to § 96.84(c); or

(ii) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the NO<sub>x</sub> Budget opt-in source during the control period.

### Subpart J—Mobile and Area Sources [Reserved]

### Subparts K—Z [Reserved]

### Subpart AA—CAIR NO<sub>x</sub> Annual Trading Program General Provisions

SOURCE: 70 FR 25339, May 12, 2005, unless otherwise noted.

#### § 96.101 Purpose.

This subpart and subparts BB through II establish the model rule comprising general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the State Clean Air Interstate Rule (CAIR) NO<sub>x</sub> Annual Trading Program, under section 110 of the Clean Air Act and § 51.123 of this chapter, as a means of mitigating interstate transport of fine particulates and nitrogen oxides. The owner or operator of a unit or a source shall comply with the requirements of this subpart and subparts BB through II as a matter of federal law only if the State with jurisdiction over the unit and the source incorporates by reference such subparts or otherwise adopts the requirements of such subparts in accordance with § 51.123(o)(1) or (2) of this chapter, the State submits to the Administrator one or more revisions of the State implementation plan that include such adoption, and the Administrator approves such revisions. If the State